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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,430	04/15/2004	Roger L. Stolte	1149.1121101	9854

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ECOLAB INC.
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EAGAN, MN 55121

EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/826,430

Applicant(s)

STOLTE ET AL.

Examiner

Necholus Ogden

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 38-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/04/9/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 38-69 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7-12-2006.

The examiner respectfully disagrees with respect to applicant's argument that the claims would not have an undue burden on the examiner.

This application contains claims 38-69 drawn to an invention nonelected with traverse in Paper No. 7-16-2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Objections

2. Claim 14 is objected to because of the following informalities: The aforementioned claim states that said composition further comprises a linear "alkylate" sulfonate. The term "alkylate" is not understood and perhaps is a misspelling. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1751

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1751

7. Claims 1-9, 11, 13, 15-17, 21, 22, 27-37 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Van den Brom et al (5,719,111).

Van den Brom et al disclose a solid detergent block comprising 0.1 to 10% by weight of a non-phosphate building agent such as MGDA an alkali metal silicate (col. 4, lines 1-20); less than 5.0% by weight of water; 5-80% by weight of an alkaline agent; 0.5 to 5.0% by weight of a surfactant and 0 to 20% by weight of a bleaching agent (col. 2, lines 20-55). Note, see examples and claims

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, if the above listed claims are not considered anticipatory, it would have nonetheless been obvious to one of ordinary skill in the art to combine the components of Van den Brom et al to specifically teach the claimed MGDA solid detergent composition because Van den Brom et al require each of the claimed components in their requisite proportions, wherein it would have been obvious to combine the components, absent a showing to the contrary.

8. Claims 1-25, and 31 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over European Patent (0882786).

EP '786 disclose a powdered detergent composition comprising 0.5 to 30% by weight of MGDA; 0.5 to 18% by weight of a nonionic surfactant; 1 to 30% by weight of a anionic surfactant; and inorganic builders such as crystalline silicate (see abstract). EP '786 further includes other builders such as tripolyphosphates, and silicates (page 7, lines 35-55) .

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, if the above listed claims are not considered anticipatory, it would have nonetheless been obvious to one of ordinary skill in the art to combine the components of EP '786 to specifically teach the claimed MGDA solid detergent composition because EP '786 require each of the claimed components in their requisite proportions, wherein it would have been obvious to combine the components, absent a showing to the contrary.

9. Claims 1-37 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Williams (6,162,259).

Williams disclose a laundry composition comprising a builder, surfactant and amino tricarboxylic acid such as MGDA. Williams teaches that said surfactant comprises from 0.2 to 30% by weight of an anionic, nonionic, cationic and/or mixtures thereof (col. 2, lines 20-57). With respect to the anionic surfactants, Williams teaches that said anionic surfactants may consists of alkyl sulfonate, sulfate and ethoxy sulfate surfactants (col. 3, lines 42-60). The compositions of Williams further comprise 1-80% by weight of said builders such as tripolyphosphates (col. 5, lines 60-65); and aluminosilicates; and 0.001 to 40% by weight of MGDA (col. 6, lines 34-67). Additional components such as 3-12% by weight of alkalinity components such as alkali metal silicates, 0.005 to 20% by weight of sequestrants and adjunct materials (col. 22, lines 5-41). Moreover, Williams further teach that said composition may be in any form such as tablets, granular, powders (col. 26, lines 24-26), and wherein said compositions are processed by extrusion and tabletted (col. 26, lines 47-58). With respect to claim 32,

Art Unit: 1751

said tablet or granular compositions may be dispensed from a container (col. 27, line 34-col. 28, line 20). See examples 1-3, 5, 8-9 and claims.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, if the above listed claims are not considered anticipatory, it would have nonetheless been obvious to one of ordinary skill in the art to combine the components of Williams to specifically teach the claimed MGDA solid detergent composition because Williams requires each of the claimed components in their requisite proportions, wherein it would have been obvious to combine the components, absent a showing to the contrary.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DE 19937345.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Necholus Ogden
Primary Examiner
Art Unit 1751

No
9-12-2006